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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,707	05/14/2007	Christian Claudepierre	10191/4771	9604
26646 7590 11/23/2010 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER COLEMAN, KEITH A	
			ART UNIT 3783	PAPER NUMBER
			MAIL DATE 11/23/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,707

Applicant(s)

CLAUDEPIERRE ET AL.

Examiner

KEITH COLEMAN

Art Unit

3783

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Matischuk et al. (WO/2001/044639).

With regards to claims 12 and 23, the patent to Matischuk et al. discloses specifying a setpoint (i.e. MSOLL1, MSOLL2, TSOLL1, and TSOLL2, See Page 6, Lines 20-35 for a desired torque) for at least one output variable of the drive unit (i.e. motor and transmission, See Page 4, Lines 15-20); and specifying a setpoint (i.e. setting a setpoint value pair MSOLLRES and TSOLLRES via coordinator 100 for ignition timing and air supply, See Page 6, Lines 20-25) for an operating variable of the drive unit in at least one operating state of the drive unit (i.e. during normal and starting operating conditions, See Page 6, Lines 10-25); wherein, in the at least one operating state of the drive unit (i.e. air supply, ignition, engine speed, engine load, See Page 6, Lines 20-35), the at least one output variable (i.e. desired torque) of the drive unit is specified regardless of the setpoint for the at least one output variable (i.e. via the coordinator 100, See Page 6, Lines 20-35), by approximating an actual value for the operating

variable to the setpoint for the operating variable (i.e. the actual torque is matched to the desired torque, See Page 6, Lines 20-35).

With regards to claims 13 and 25-35, the patent to Matischuk et al. discloses specifying a setpoint (i.e. MSOLL1, MSOLL2, TSOLL1, and TSOLL2, See Page 6, Lines 20-35 for a desired torque) for at least one output variable of the drive unit (i.e. motor and transmission, See Page 4, Lines 15-20); specifying a setpoint (i.e. setting a setpoint value pair MSOLLRES and TSOLLRES via coordinator 100 for ignition timing and air supply, See Page 6, Lines 20-25) for an operating variable of the drive unit (i.e. motor and transmission, See Page 4, Lines 15-20) in at least one operating state of the drive unit; and modifying the at least one output variable of the drive unit (i.e. the actual torque to match desired torque) in the at least one operating state of the drive unit, starting from the setpoint for the at least one output variable (i.e. the desired torque), by approximating an actual value for the operating variable to the setpoint for the operating variable (i.e. gear switching actions, See Page 10, Lines 5-15); wherein the at least one operating state of the drive unit includes a gear shift operation of a transmission (i.e. gear switching actions, See Page 10, Lines 5-15).

With regards to claims 14 and 15, the patent to Matischuk et al. discloses wherein the at least one output variable is one of a torque and a power of the drive unit (i.e. torque and engine load as discussed on See Page 6, Lines 20-35).

With regards to claims 16 and 17, the patent to Matischuk et al. discloses wherein the operating variable is a speed of an engine of the drive unit (i.e. engine speed discussed on See Page 6, Lines 20-35).

With regards to claim 20, the patent to Matischuk et al. discloses wherein the at least one output variable of the drive unit is specified by a regulator (i.e. the accelerator pedal via acceleration position parameter as discussed on See Page 4, Lines 25-35).

With regards to claim 24, the patent to Matischuk et al. discloses an arrangement (via coordinator 100, See Figure 2) for specifying a setpoint for at least one output variable of the drive unit (i.e. setting a set-point value pair MSOLLRES and TSOLLRES via coordinator 100 for ignition timing and air supply, See Page 6, Lines 20-25); a first specification unit (i.e. example of a traction control system, 104, See Page 6, Lines 25-35) for specifying a setpoint for an operating variable of the drive unit in at least one operating state of the drive unit; and a second specification unit (i.e. converter 102 as discussed on Page 6, Lines 20-25) for specifying, in the at least one operating state, the at least one output variable of the drive unit regardless of the setpoint for the at least one output variable, by approximating an actual value for the operating variable to the setpoint for the operating variable (i.e. setting a set-point value pair MSOLLRES and TSOLLRES via coordinator 100 for ignition timing and air supply, See Page 6, Lines 20-25).

With regards to claims 21 and 22, the patent to Matischuk discloses wherein a drive unit (i.e. an internal combustion engine, See Page 4, Lines 15-20) is operated with an internal combustion engine, and wherein a first output variable of the drive unit is specified for an ignition path (i.e. setting a set-point value pair MSOLLRES and TSOLLRES via coordinator 100 for ignition timing, See Page 6, Lines 20-25) of the internal combustion engine, and a second output variable of the drive unit is specified for an air path (i.e. setting a set-point value pair MSOLLRES and TSOLLRES via coordinator 100 for air supply, See Page 6, Lines 20-25) of the internal combustion engine.

With regards to claims 18 and 19, the patent to Matischuk et al. discloses wherein the at least one operating state is a start-up operating state of the drive unit (i.e. during normal and starting operating conditions, See Page 6, Lines 10-25).

Response to Arguments

3. Applicant's arguments filed 9/10/2010 have been fully considered but they are not persuasive.

Examiner's Response to Arguments

With regards to Applicant's arguments on Pages 2 and 3 regarding the "in the sense of" limitations, Examiner does not concur that this limitation is not taught by the

Matischuk reference. On Page 6, Lines 20-25, MSOLLRES and TSOLLRES are used to sense parameters such as ignition timing, air supply, and torque via coordinator 100.

With regards to Applicant's arguments on Page 3 regarding the "speed of the engine," Examiner also does not concur that this limitation is not taught by the Matischuk reference. Page 6, Lines 20-35 further discloses parameters such as air supply, ignition/start-up, engine speed, and engine load. As such, the Matischuk reference discloses the newly added subject matter in claims 25-35.

This action is made final.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH COLEMAN whose telephone number is (571)270-3516. The examiner can normally be reached on 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Cuff can be reached on (571)272-6778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KAC
/K. C./
Examiner, Art Unit 3783

/Michael Cuff/
Supervisory Patent Examiner, Art Unit 3741